

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Petition for approval of delivery services tariffs and	:	No. 01-0423
tariff revisions and of residential delivery services	:	
implementation plan, and for approval of certain	:	
other amendments and additions to its rates, terms,	:	
and conditions.	:	

Phase II Reply Testimony of
PAUL R. CRUMRINE
Director,
Regulatory Strategies & Services
Commonwealth Edison Company

1 Q. Please state your name.

2 A. My name is Paul R. Crumrine.

3 Q. Are you the same Paul R. Crumrine who presented direct, rebuttal, and surrebuttal
4 testimony on behalf of Commonwealth Edison Company (“ComEd”) in Phase I of this
5 proceeding, and direct and rebuttal testimony on behalf of ComEd in Phase II of this
6 proceeding?

7 A. Yes.

8 Q. What are the purposes of your Phase II reply testimony?

9 A. My reply testimony has a number of purposes. **First**, I will overview both ComEd’s
10 Phase II reply testimony and the Phase II rebuttal testimony filed by the Staff (“Staff”) of
11 the Illinois Commerce Commission (the “Commission”), the Governmental and
12 Consumer (“GC”) parties¹, and Liberty Consulting Group (“Liberty”). As part of this
13 overview, I will discuss key issues on which this proceeding turns.

14 **Second**, I will explain why, on multiple grounds, the Commission should reject
15 the claims or implications of GC witness David J. Effron and Liberty witnesses John
16 Antonuk and Robert Stright to the effect that “recovery costs” incurred by ComEd, as
17 defined by Liberty, are atypical and non-recurring, and are, therefore, automatically non-
18 recoverable.

19 **Third**, I will show how Messrs. Antonuk and Stright’s comments about the
20 comparative cost-of-service study presented in my Phase II direct testimony miss the
21 point and cast no doubt on the study’s message that ComEd’s revised proposed

¹ The GC parties are the Illinois Attorney General’s office, the City of Chicago, the Cook County State’s Attorney’s Office, and the Citizens Utility Board.

jurisdictional revenue requirement and related rates are reasonable when compared to those of its peer utilities.

Fourth, I will respond to certain Staff testimony concerning rate design and the proposed disallowance of expenses for storm restoration,.

Finally, **fifth**, I will show that Staff witness Bruce A. Larson did have sufficient time to analyze and comment on ComEd witness Dr. James B. Williams' workpapers.

I.

OVERVIEW OF STAFF'S, THE GC PARTIES', AND LIBERTY'S REBUTTAL TESTIMONY AND OF COMED'S REPLY TESTIMONY

Q. Please summarize the major conclusions that can be drawn from the Phase II rebuttal testimony of Staff, the GC parties, and Liberty.

A. A review of the rebuttal testimony of Staff, the GC parties, and Liberty makes clear that the only articulated basis for recommending "prudence" or "recovery program" disallowances is Liberty's October 4, 2002 Audit Report (the "Audit Report"). While Liberty's rebuttal testimony is laced with the language of prudence, most commonly assertions that ComEd acted "imprudently," Liberty's testimony continues to make clear that Liberty did not undertake a proper prudence audit. With respect to the capital projects in particular, the Audit Report is simply devoid of any prudence analysis. Liberty did not carefully analyze, without use of hindsight, ComEd's investment or operation decisions to determine which, if any, among them were unreasonable at the time they were made, given the information available to ComEd management at the time. Instead, Liberty reconstructed with hindsight an investment and expense trajectory and grounded its proposed global disallowances in deviations from those reconstructions.

Liberty's testimony, in particular, does not effectively deny this, but rather makes excuses for its failings to follow normal prudence audit procedures or to conduct independent planning or engineering analyses. This is highlighted most graphically in Liberty's submission of a collection of snippets drawn almost exclusively from an after-the-fact draft document prepared by a communications consultant in an effort to motivate employees through self-criticism. Liberty's witnesses' claim that the Audit Report also relies on Liberty's prior management audits of ComEd only confirms the problem. Those audits were not tasked with assessing the prudence of any action taken by ComEd, but with using all available data -- including after-the-fact, hindsight data -- to describe the state of ComEd's transmission and distribution systems and identify areas where, in Liberty's view, further improvements could be made. ComEd, on the other hand, has presented significant evidence in both Phases I and II of this Docket (including, for example, the testimonies of Michael Born, P.E., David DeCampi, Robert Donohue, Professor Daniel Halpin, David Helwig, P.E., Ms. Arlene Juracek, P.E., Robert McDonald, Phillip Voltz, Dr. James Williams, and Ron Williams) that it acted prudently. It has met its burden of proof.

Q. Is any portion of your reply testimony or that of other ComEd reply testimony submitted contemporaneously intended to argue for a result inconsistent in any way with that proposed in the Motion of Commonwealth Edison Company and attached proposed Order ("March 5 Proposed Order") filed on March 5, 2003?

A. No. ComEd is not in or through this testimony arguing for a result in any way at variance with the March 5 Proposed Order and to the extent that any of the testimony may support an argument or conclusion of any issue different from that in the March 5 Proposed

Order, I expressly affirm that such testimony should not be understood to request such a result. ComEd fully supports the Motion.

Q. Please provide a brief overview of ComEd's Phase II reply testimony.

A. In addition to my testimony, ComEd will present these Phase II reply testimonies:

Dr. Karl A. McDermott (ComEd Exhibit 122.0) explains why Liberty's rebuttal testimony is largely an attempt to retroactively re-characterize its own failure to properly assess ComEd's prudence. In so doing, Dr. McDermott discusses examples relating to disallowances that are both rejected and accepted by the March 5 Proposed Order that ComEd supports. Dr. McDermott also highlights Staff's failures both to offer any basis for an imprudence finding and to apply the proper prudence standard, in particular to its analysis of ComEd's capital investments.

Robert K. McDonald (ComEd Exhibit 123.0) responds to Liberty's attempted defense of its failure to correct for the inclusion of non-jurisdictional transmission assets in its capital "smoothing" analysis and its defense of its attempt to adjust downward ComEd's rate base to "remove" assets that were never in rate base in the first place.

Dr. James B. Williams (ComEd Exhibit 124.0) responds to various criticisms of ComEd's capital project management.

Michael F. Born, P.E. (ComEd Exhibit 125.0) responds to arguments of Mr. Larson and the Antonuk/Stright panel that attempt to attack ComEd's capacity planning process, including with hindsight challenges based on ComEd's subsequent adoption of 90th percentile weather as a planning standard. Mr. Born also shows that certain plant included in ComEd's 2nd Quarter 2001 *pro forma* adjustment were indisputably in service on or before June 30, 2001.

Jerome P. Hill (ComEd Exhibit 126.0) responds to the arguments of Staff witness Scott A. Struck on ComEd's 2001 revenue requirement comparison analysis, and explains how it independently undermines much of the Audit Report. Mr. Hill addresses the other parties' rebuttal testimony regarding incentive compensation. Mr. Hill next addresses the overstatement of Liberty's "Global" distribution O&M expense disallowance. Further, Mr. Hill responds to the rebuttal testimony of Staff and Mr. Effron regarding the functionalization of Administrative and General ("A&G") expenses and responds to Liberty and Staff regarding certain additional Customer and A&G disallowances.

Q. Is ComEd's reply testimony intended to cover all of the issues raised by Staff, the GC parties, and Liberty in their respective rebuttal testimony?

102 A. No, it is not. The schedule, as it currently exists, provides ComEd with substantial
103 additional time in which to file testimony. ComEd reserves the right to do so. Indeed,
104 should the Motion not be granted, ComEd would be prejudiced absent an opportunity to
105 file additional testimony as permitted by the current schedule.

106 Q. Given that the prefilings of Phase II testimony is coming to a close, what are the key
107 questions on which this proceeding now turns?

108 A. This proceeding now turns on a couple of key questions:

- 109 • **Did any of the costs still included in ComEd's proposed revenue requirement**
110 **stem from imprudence?** To answer this question, the Commission must look to
111 evidence of prudence -- an evaluation of decisions whether to invest or spend
112 based solely on the facts available at the time the decisions were made; hindsight
113 is strictly prohibited. No rebuttal witness questions this standard. Nor should
114 they. I understand that it is consistent with longstanding Commission precedent.
115 Moreover, no witness denies that ComEd has made a *prima facie* case supporting
116 collection of at least the revenue requirement supported by Mr. Hill in his
117 Supplemental Rebuttal testimony (ComEd Exhibit 114.0). Thus, for this
118 proceeding, the threshold issue is quite simple: is there a prudence analysis that
119 shows imprudence on the part of ComEd that, in turn, inflated ComEd's proposed
120 revenue requirement? Given that Liberty clearly and admittedly did not conduct
121 such an analysis, and given that neither the GC parties nor Staff did so, the answer
122 is unavoidably no. That answer is confirmed by ComEd's own testimony.
- 123 • **Are there certain initial revenue requirement-related decisions contained in**
124 **the Interim Order that should be modified?** In its April 1, 2002 Interim Order
125 (as modified) in this proceeding (the "Interim Order"), the Commission made a
126 number of initial determinations on issues related to ComEd's revenue
127 requirement. Some of those decisions should be reconsidered, with the benefit of
128 Phase II testimony. One particular example is the Interim Order's adoption of
129 general labor allocator for determining the functionalization of costs and
130 investments. As Mr. Hill demonstrated in detail during Phase I, and once again
131 has shown during Phase II, a general labor allocator is improper, at least as
132 proposed in the March 5 Proposed Order, with respect to Administrative &
133 General expenses, as direct assignment of these costs is possible and constitutes a
134 superior method.

135 In addition to answering these key questions, the Commission needs to address certain
136 deferred issues concerning the Rider HVDS credit, demand ratcheting, and the definition

of billing demand (*see* ComEd Exhibit 113.0 at pages 5-6), as does the March 5 Proposed Order.

II.

COMED'S "RECOVERY COSTS" WERE PRUDENTLY INCURRED AND REASONABLE, AND THEREFORE SHOULD BE FULLY RECOVERED

Q. Mr. Effron (GC Exhibit 8.0 at pages 4-5) and Messrs. Antonuk and Stright (Liberty Exhibit 2.0 at page 23) suggest that ComEd's incremental "recovery costs" in 2000, as defined by Liberty, were *per se* atypical and non-recurring, and are therefore not recoverable. Are they correct?

A. No. This position continues to blur the distinction between a "recovery cost" and a rate base item or expense that is properly disallowed. As I explained in detail in my Phase II rebuttal testimony (ComEd Exhibit 116.0 at pages 5-7), such an position, among other things, fails to consider prudence, and is inconsistent with both the Interim Order and the Commission's February 6, 2002 Order in its separate audit proceeding (Docket No. 01-0664). In fact, as ComEd has demonstrated, its "recovery costs" were prudently incurred and reasonable, and therefore should be fully allowed.

Moreover, the position taken in these testimonies continues to advocate or assume the incorrect and unsupported notion that non-recurring or "one-time" costs are not recoverable and should automatically be borne by shareholders. There is no logic for this position. Utilities, like all businesses, have typical and recurring levels of individually atypical and non-recurring costs. Utilities like ComEd should be allowed to recover at least those costs. Moreover, even truly unrepresentative cost types are still recoverable through means such as amortization. Utilities are entitled to rates that afford them the

161 fair opportunity to recover all of their costs of providing delivery services. There is no
162 valid reason to exclude non-recurring costs from this right.

163 **III.**

164 **COMED'S COMPARATIVE ANALYSIS OF**
165 **REVENUE REQUIREMENTS AND RELATED RATES**
166 **SHOWS THE REASONABLENESS OF COMED'S PROPOSALS**

167 Q. Messrs. Antonuk and Stright claim (at page 141) that the comparative analysis presented
168 in your Phase II direct testimony (ComEd Exhibit 113.0 at pages 8-16) does not provide
169 “probative data” concerning Liberty’s conclusions. Are they right?

170 A. No, they are not. As I explained in my Phase II direct testimony (at page 14), the
171 comparative analysis shows that by multiple measures, ComEd’s costs of providing state-
172 jurisdictional delivery services, and the resulting state-jurisdictional revenue requirement,
173 are not excessive, or out of line, when compared to those of ComEd’s peers. This
174 analysis thus directly refutes Liberty’s claim that ComEd’s revenue requirement includes
175 increased capital costs relating to deferred capital investment and O&M expenditures for
176 “catch-up” that can be statistically determined through “trend lines” and the like, without
177 a project-by-project engineering and planning analysis. If ComEd’s test-year
178 expenditures were abnormally high, its unitized *pro forma* revenue requirement derived
179 by this analysis would be expected to be well above the unitized revenue requirements of
180 its peer utilities. But, that simply was not the case, even when tested against a broad
181 range of other utilities and using a broad range of measures. My analysis shows that,
182 fundamentally, ComEd’s total expenditures – O&M, capital, and allocated common costs
183 – were consistent with what would be expected of a reliable electric utility of ComEd’s
184 size and type.

185 Q. Messrs. Antonuk and Stright also contend (at page 141) that “some other factor” could
186 “mask” recovery costs, and that with the number of “variables” in calculating the peer
187 group’s revenue requirements, the Commission cannot have any “assurance” that the
188 calculation methodology is not “skew[ing]” the results for ComEd. Please comment.

189 A. These claims are pure speculation, and utterly fail to recognize the measures in the
190 comparative analysis to minimize influence from “other factor[s]” and variables (*see*
191 ComEd Exhibit 113.0 at pages 8-15). A large sample was used and ComEd was graded
192 on six independent unit measures. It is hard to imagine that data error was at work,
193 especially considering how much more robust was this sample than any used by Liberty.
194 Further, any “skewing” likely would cut against ComEd, as its *pro forma* revenue
195 requirement was higher than its proposed one here.

196 Q. Messrs. Antonuk and Stright also state (at page 141) that overall comparisons of rates are
197 not used for setting rates. Please comment.

198 A. This statement is generally correct – indeed, I made a similar observation in my Phase II
199 direct testimony (at page 12) – but they completely miss the point. ComEd never argued
200 that a comparative analysis was a valid basis for setting rates. ComEd’s rates should be
201 based on *its own* expenses and rate base. But, the comparative analysis does show how
202 ComEd’s costs stack up against those of others, and exposes flaws in Liberty’s
203 comparisons (Audit Report at pages II-46 through II-48) and conclusions.

204 Q. Messrs. Antonuk and Stright claim (at page 142) that they conducted a peer group
205 comparison of O&M costs to examine the comparability of such costs, and would have
206 used total revenue requirements or rates if the Commission had asked, and if they had
207 decided that such a comparison was important to consider. Please comment.

208 A. These claims do not change anything. They do not challenge the compelling conclusions
209 of the comparative analysis that I presented. Nor do they do anything to buttress
210 Liberty's flawed inferences from its own comparison.

211 **IV.**

212 **REPLIES TO VARIOUS RATE DESIGN**
213 **ISSUES AND TO THE PROPOSED DISALLOWANCE**
214 **OF COST FOR STORM RESTORATION ACTIVITIES**

215 Q. Staff witness Mike Luth again recommends (ICC Staff Exhibit 34.0 at pages 2-4) that the
216 rates for the Fixture-included Lighting and All Other Lighting classes not be based on
217 cost-based rates. Should these recommendations be adopted?

218 A. No, they should not. Mr. Luth adds no new evidence and I have adequately replied to his
219 arguments in my Phase II rebuttal testimony (at pages 14-18).

220 Q. Mr. Luth proposes (at pages 4-6) a different Rider HVDS credit from the one that you
221 recommend. Please comment.

222 A. The Commission should adopt the Rider HVDS credits recommended by ComEd in the
223 Phase II Supplemental Rebuttal Testimony of Mr. Alongi and Mrs. Kelly (*see* ComEd
224 Exhibits 115.1 and 115.2). There are several reasons for this. First, ComEd has proposed
225 Rider HVDS credits that are consistent with the overall rate design proposed in the March
226 5 Proposed Order for the non-residential classes, and supported by many parties in the
227 case. Mr. Luth's proposal is not consistent with this design. Second, Mr. Luth's Rider
228 HVDS calculation is based on a different proposed revenue requirement. Third, while I
229 mean no criticism by it, Mr. Luth is using data from ComEd Exhibit 50.0, Attachment B,
230 which is based on calculations that do not remove customers eligible for Rider ZSS.
231 Because customers taking service under Rider ZSS will not receive the Rider HVDS

232 credit, the calculations of the credit in ComEd Exhibits 115.1 and 115.2 are more
233 accurate. Finally, ComEd has proposed a phase-in of the Rider HVDS credits, which
234 Mr. Luth's calculations do not reflect.

235 Q. Staff witness Bryan C. Sant recommends (ICC Staff Exhibit 30.0 at pages 3, 5-7) that the
236 Commission maintain the Interim Order's disallowances for storm restoration expenses
237 (\$5,771,000) and therefore reject the proposed reversal of such disallowance reflected in
238 Mr. Hill's Phase II direct testimony (ComEd Exhibit 112.0 at page 59; ComEd Exhibit
239 112.1 at page 3, column (P)) and his Phase II supplemental rebuttal testimony (ComEd
240 Exhibit 114.1, page 3, column (P)). Please comment.

241 A. This disallowance should be reversed. Mr. Sant offers no independent rationale for his
242 position, instead opting just to quote the Interim Order and to assert that ComEd had not
243 provided new reasons or data for rejecting the disallowance. ComEd has presented
244 evidence showing that the storm restoration disallowance should be reversed. Examples
245 include Mr. Voltz's Phase I testimony (ComEd Exhibit 5.0 at pages 19-21; ComEd
246 Exhibit 24.0 CR at pages 17-20; ComEd Exhibit 46.0 at pages 19-22; Voltz, Tr.
247 1993-97), and Mr. Sant's prior concession that if, as Mr. Voltz discussed, ComEd since
248 1998 has been doing temporary storm repairs as well as permanent storm repairs, when it
249 previously did not perform such temporary repairs, then it "probably" cannot do that for
250 free (Sant, Tr. 1739). Mr. Sant does not address this evidence.

V.

**COMED SERVED DR. WILLIAMS' WORKPAPERS
AND OTHER SUPPORTING DOCUMENTS
WELL BEFORE THE DUE DATE FOR FILING
PHASE II REBUTTAL TESTIMONY**

Q. Mr. Larson states (ICC Staff Exhibit 33.0 at page 10) that he has not reviewed Dr. Williams' computations for estimating the costs to build substations without any "hurried" construction costs because that he did not receive supporting workpapers until February 26, 2003. Please comment.

A. Staff received Dr. Williams' supporting workpapers five days earlier, on February 21, as a part of ComEd's second supplemental response to Liberty Data Request No. 1.06. Mr. Larson's reference to February 26, 2003 may instead relate to ComEd's additional submittal to Mr. Larson, per his request, of the working spreadsheet that produced the workpapers. Regardless, Mr. Larson had Dr. Williams' materials in sufficient of time to analyze and comment on them in his rebuttal testimony, and allowing Mr. Larson to file supplemental rebuttal testimony would not be appropriate.

Q. Does this complete your Phase II reply testimony?

A. Yes.